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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,616	07/26/2006	Mihara Kiyoo	(05:153)	9854
2119	7590	03/17/2009	EXAMINER	
RONALD E. GREIGG GREIGG & GREIGG P.L.L.C. 1423 POWHATAN STREET, UNIT ONE ALEXANDRIA, VA 22314			SALMON, DEVIN RAE	
			ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/564,616	Applicant(s) KIYOO, MIHARA	
	Examiner Devin Oakes	Art Unit 4185	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 July 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/13/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 1/16/2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered. Copies of the non-patent literature are not present in the application file.

Claim Objections

2. Claims 13-15 are objected to because of the following informalities: the term dimensioned is spelled incorrectly as "dementioned" in line two of each claim. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. **Claims 5-15** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is indefinite due to the suction connector being mounted on the outer surface of the bag which would yield a projection on the

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outer side of the bag yet the claim requires there not to be any projection on the outer side of the bag.

5. **Claims 13-15** recite the limitation "the concavity" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. **Claims 5-8, 13, and 14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu (US 5,332,095) in view of Su (US 6,604,634).

9. **Regarding Claim 5**, Wu discloses a valve mechanism to be attached to a tightly closed bag for holding its contents by keeping the contents from ambient air and adapted to open for evacuating air from the tightly closed bag and close for stopping such evacuation, the valve mechanism comprising: a suction connector (64) mounted

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on the outer surface of a tightly closed bag having a hole (63) formed therein, the suction connector having a vent formed in its center; a valve base (3) mounted on the inner surface of the tightly closed bag, a suction opening (32) formed in its center as viewed in top plan and an edge portion adapted to be joined to the suction connector with the tightly closed bag held there between; and a valve body(41) facing the suction opening within the valve base and adapted to open the suction opening upon suction through the vent and close it upon stoppage of suction (Figure 4). To the degree it could be argued that Wu fails to disclose that the valve base has a recessed shape in cross-section.

However, Su discloses a valve mechanism wherein there is a guard (11) which is similar to the abutting rods(31) which protrude from the valve base (3) of Wu. The guard of Su is recessed in cross section (Figure 8C) and would be considered to be part of the valve body since it is attached to that portion in Su.

10. It would be within the level of one of ordinary skill in the art to replace the abutting rods portion of the valve body of Wu with the guard of Su as part of the valve body portion since doing so would provide an alternate way to prevent the packaging from obstructing the vent.

11. **Regarding Claim 6**, Wu in view of Su discloses the valve mechanism of claim 5, but fails to disclose that the valve base has a ring member of an elastic material attached integrally to in, and the suction connector has a concavity formed in its portion corresponding in position to the ring member on the valve base.

However, Figure 8C of Su discloses a ring member (7) in a concavity in the cap member for sealing the vent.

12. It would have been obvious to one of ordinary skill in the art to combine the ring member and the concavity for it to secure the suction connector of Wu since the use of and elastic ring (O-ring) and concavity for sealing is well known in the art.

13. **Regarding Claims 7 and 8**, Wu in view of Su discloses the valve mechanisms of claims 5 and 6, but fails to disclose that the valve base has ridges formed on the opposite side thereof from the suction connector and extending from the periphery of a suction opening. Wu discloses abutting rods (31) which protrude from the valve base opposite the suction connector and that extend from the periphery of the suction opening.

14. However, in rejecting claim 5 the examiner suggested that the rods be replaced with the guard of Su since doing so would provide an alternate way to prevent the packaging from obstructing the vents. The examiner further suggests that it would be obvious to one of ordinary skill in the art to supplement the guard of Su with the abutting rods of Wu. Since doing so would prevent further assist in preventing the through holes (11) of Su from becoming blocked by the packaging.

15. **Regarding Claims 13 and 14**, Wu in view of Su discloses that the ring member (7) is dimensioned to fit into the concavity with a portion of the bag (20) around the periphery of an opening in one wall retained in air-tight relation there between (Figure 8C).

16. **Claims 9-12 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wu in view of Su and further in view of Motonaka et al (US 6,712,334).

17. **Regarding Claims 9-12**, Wu in view of Su fails to disclose that the suction connector further comprises load restraining means provided around its vent for restraining the load of the suction device used for discharging air from the tightly closed bag.

18. However, Motonaka et al. discloses the use of a sponge material (30) provided around the vent on the suction connector to restrain the load (Figure 9 and Column 10, lines 41-60).

19. It would have been obvious to one of ordinary skill in the art to add the sponge material of Motonaka et al to the suction connector of Wu in view of Su since doing so would provide a way to avoid overloading and thereby damaging the suction means.

20. **Regarding Claim 15**, Wu in view of Su discloses that the ring member (7) is dimensioned to fit into the concavity with a portion of the bag (20) around the periphery of an opening in one wall retained in air-tight relation there between (Figure 8C).

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Skeens et al. (US 6,408,872); Overby et al. (US 6,070,728); Walters (US 5,893,461); Carson (US 5,450,963); Borchardt (US 7,438,473); Wu et al. (US 2005/0036718).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Devin Oakes whose telephone number is (571)270-

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7111. The examiner can normally be reached on Monday thru Thursday, 9:30 A.M. to 5:30 P.M. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Devin Oakes/
Examiner, Art Unit 3782

/Nathan J. Newhouse/
Supervisory Patent Examiner, Art Unit 3782